

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

LONGINO IDROGO

Plaintiff

v.

JACOB JOSEPH LEW

Defendant

§
§
§
§
§
§
§
§
§
§

No. SA-13-CA-407

ORDER OF DISMISSAL

Plaintiff Longino Idrogo, also known as Longino Idrogo Franco, initiated this civil action by filing a pleading which he chose to title "libel of review." For convenience, the Court will refer to this initial pleading as the Plaintiff's original complaint. The only Defendant named is Jacob Joseph Lew, the United States Secretary of the Treasury. On August 6, 2013, the Defendant filed a motion to dismiss (Docket No. 8). On August 13, 2013, the Plaintiff filed a response, which he chose to title "refusal for cause" (Docket No. 9). The Court, having considered the motion and the Plaintiff's response, finds that the Court lacks subject matter jurisdiction, and that the motion to dismiss should be granted.

The file reflects the following facts: the Internal Revenue Service has made demand on Plaintiff Idrogo for the payment of past due federal taxes. In the instant case, he is seeking (a) a declaratory judgment that he does now owe the taxes assessed by the IRS, and (b) an injunction, restraining and enjoining the Defendant from attempting to collect those taxes.

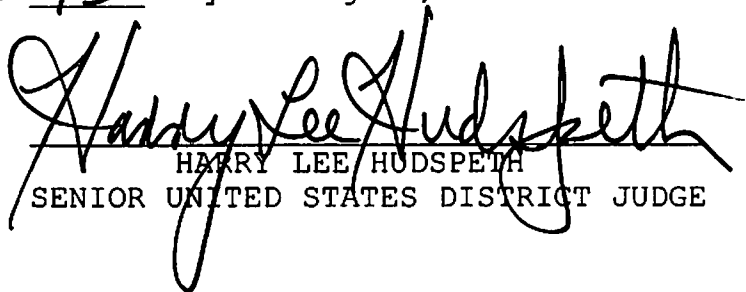
The Plaintiff's complaint must be dismissed because this Court lacks subject matter jurisdiction. The Declaratory Judgment Act does not confer jurisdiction to grant declaratory relief in any cases involving federal taxes. 28 U.S.C. § 2201(a). The Anti-Injunction Act prohibits this Court from entertaining any suit for the purpose of restraining the assessment or collection of any tax. 26 U.S.C. § 7421. Accordingly, the Court must grant the Defendant's motion to dismiss.

IT IS THEREFORE ORDERED that the Defendant's motion to dismiss the complaint (Docket No. 8) be, and it is hereby, GRANTED.

IT IS FURTHER ORDERED that this cause be, and it is hereby, DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the Defendant's motion for sanctions be, and it is hereby, DENIED WITHOUT PREJUDICE. Plaintiff Idrogo is cautioned that any further frivolous filings may result in appropriate sanctions.

SIGNED AND ENTERED this 13th day of August, 2013.


HARRY LEE HUDSPETH
SENIOR UNITED STATES DISTRICT JUDGE